

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA  
Plaintiff

v.

[18] LUCIO FLORES RODRIGUEZ,  
Defendant

Criminal No. 07-121 (ADC)

OPINION AND ORDER

**I. Procedural Background**

**A. In General**

On March 19, 2007, defendant Lucio Flores Rodríguez (hereinafter “Flores”) along with forty-one (41) other individuals were charged for having conspired, between 2003 and 2007, to knowingly and intentionally engage in the illegal possession of controlled substance with intent to distribute. Title 21, U.S.C. §§ 841, 846, 860.

On November 18, 2007, defendant Flores filed a motion to suppress where he alleges that evidence regarding Overt Act No. 22, which depicts defendant alleged participation in a murder is irrelevant and was not an action in furtherance of the conspiracy. The government alleges the killings occurred “in order to gain control and further expand the drug trafficking organization” of which defendant Flores was a member. Defendant Flores asserts that even if the killings did take place, such an act is not relevant to the conspiracy inasmuch as the killings were not in relation or in furtherance of drug trafficking offenses.

Inasmuch as not relevant, defendant contends that evidence regarding Overt Act No. 22 is inadmissible and unfairly prejudicial. (**Docket No. 625**).

The matter was referred to a Magistrate-Judge for a Report and Recommendation. The same was issued on December 21, 2007. (**Docket No. 749**). Defendant was granted until January 9, 2008 to object. To date, defendant Flores has not objected to the Magistrate-Judge's recommendation to have his request for suppression denied.

**B. The Report and Recommendation**

The Magistrate-Judge concludes the defendant's motion is to be denied inasmuch as, at this stage, the government remains subject to meet its burden of presenting evidence that will not only link defendant to the murder of Reynaldo de León-Martínez and Omar J. Díaz-Escobar but remains bound to also demonstrate that said killings were prompted and related to the objectives of the conspiracy or in furtherance thereof. This of course, is a burden to be met at trial.

**C. Conclusion**

Defendant has failed to object to the Magistrate-Judge Report and Recommendation. As such, he has waived his right to challenge the Magistrate-Judge's conclusions of fact and law.

Defendant has also failed to demonstrate what is the evidence available to contradict the government's allegations.

More so, any claim of unfair prejudice when considered against a scant record and vague assertion of undue prejudice, appears, at the present stage, premature.

Accordingly, the Magistrate-Judge Report and Recommendation is **ADOPTED** and defendant's Motion to Suppress at **Docket No. 625**, is **DENIED**.

**SO ORDERED.**

At San Juan, Puerto Rico, this 12<sup>th</sup> day of February, 2008.

**S/AIDA M. DELGADO-COLON**  
**United States District Judge**